

## Board of Forestry and Fire Protection

### INITIAL STATEMENT OF REASONS

#### “NONINDUSTRIAL TIMBER MANAGEMENT PLAN AMENDMENTS, 2019”

#### Board of Forestry and Fire Protection

#### Title 14 of the California Code of Regulations (CCR) Division 1.5, Chapter 4

#### Subchapter 7, Article 6.5

**INTRODUCTION INCLUDING PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS (pursuant to GC § 11346.2(b)(1))...NECESSITY (pursuant to GC § 11346.2(b)(1) and 11349(a))...BENEFITS (pursuant to GC § 11346.2(b)(1))**

The Z'berg-Nejedly Forest Practice Act declares the existence of a public interest in the management and treatment of the forest resources and timberlands of the state. Pursuant to Article 7.5, the Board “shall adopt rules and regulations to implement Article 7.5 (commencing with Section 4593) of Chapter 9 of Part 2 of Division 4 of the Public Resources Code no later than January 1, 1991.” The provisions of the article (Nonindustrial Timber Management Plan) provided under PRC § 4593(c) declare “that it is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving nonindustrial timber management plans in advance and withdrawing governmental discretion to disapprove nonindustrial timber harvest notices submitted pursuant to the approved nonindustrial timber management plans.”

PRC § 4551 requires the Board to “...adopt district forest practice rules... to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources...” and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

In 2018, Senate Bill (SB) 901 (chapter 626) approved by the Governor, filed with the Secretary of State, and became effective January 1, 2019. Section 17 of SB 901 amended PRC § 4593.2(e) to read “Nonindustrial timber management plan means a management plan for nonindustrial timberlands with an objective of an uneven aged managed timber stand and sustained yield for each parcel or group of contiguous parcels meeting the requirements of Section 4593.3. A nonindustrial timber management plan may include multiple nonindustrial tree farmers, but shall not cover more than 2,500 acres.”

The proposed action was developed in response to address the statutory amendments in SB 901 related to multiple landowners and acreage restrictions and to additionally 1) expand upon the use of a designated agent for various reporting requirements for

NTMPs with multiple landowners; 2) clarify the use of various exemptions within the footprint of a NTMP; and 3) to update the mapping requirements for the NTMP and the associated Nonindustrial Timber Harvest Notice. The **problem** is that statutory amendments within SB 901 create issues of clarity and consistency with the existing regulations in the Forest Practice Rules (FPRs). Additionally, the Department of Forestry and Fire Protection (Department) requested clarification on the use of exemptions within the footprint of a NTMP; which allow for the bypassing of the Nonindustrial Timber Harvest Notice process contained within the regulations for NTMP to achieve certain, specified, management objectives. Lastly, mapping standards for the NTMP have not been updated for 27 years and do not adequately reflect current technology and other existing regulatory mapping standards.

The Board recommendations include: 1) amending and clarifying the use of a designated agent in an NTMP in several sections of PRC §§ 1090, 2) allowing the use of certain exemptions within the footprint of an approved NTMP by amending PRC § 1090 Rule Application, and 3) updating the NTMP mapping requirements in PRC § 1090.5 and 1090.7 to be consistent with the requirements of the WFMP. These proposed changes are the result of the passage of Senate Bill 901 and discussions at the Board's Forest Management and Forest Practice Advisory committees in 2018.

The **purpose** of the proposed action is to make the regulations congruent with changes resulting from the passage of SB 901, to update 14 CCR § 1090 *et seq.* to make the NTMP regulations more consistent with the WFMP regulations, to clarify the use of exemptions within the footprint of an NTMP, and to improve clarity within the existing regulations.

The **effect** of the proposed action is to: 1) clarify and effectuate the statute in the regulations provided for NTMPs in PRC § 4593 to add provisions for multiple landowners; 2) to allow the use of exemptions pursuant to 14 CCR § 1038 *et seq.* within the footprint of an NTMP; and 3) to update the mapping standards by making them consistent with the companion document and more recently approved WFMP.

The **benefit** of the proposed action is that it will make regulations for NTMPs clearer and more consistent with regulations for WFMPs, and thus allow for better stewardship of California's forests. SB 901 clarifies what had been assumed in the initial NTMP regulations: that multiple landowners may indeed participate in an NTMP. The new regulations proposed will provide for a single point of contact for NTMPs with multiple owners by using a designated agent to aid the department in the administration of NTMPs. It will also provide benefits to the nonindustrial tree farmer by clarifying that the use of some exemptions will be allowed within the footprint of an NTMP which is a more flexible permitting vehicle for the landowner than using a Nonindustrial Timber Harvest Notice associated with the NTMP. The clarification elements will make plan development easier for land owners, allow for cooperation amongst landowners, and enable land owners with an NTMP to participate in relevant exemptions within the NTMP area; the updated mapping requirements will help protect California's forests by improving documentation of harvest activities and awareness of sensitive areas in the

harvest area. The mapping updates will also make it easier for the Department to review NTMPs and WFMPs by providing consistency between the two plans. Finally, changes to NTMP mapping requirements will improve enforcement and implementation of these regulations by the Department.

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL (pursuant to GOV § 11346.2(b)(1)) AND THE RATIONALE FOR THE AGENCY'S DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSE(S) OF THE STATUTE(S) OR OTHER PROVISIONS OF LAW THAT THE ACTION IS IMPLEMENTING, INTERPRETING OR MAKING SPECIFIC AND TO ADDRESS THE PROBLEM FOR WHICH IT IS PROPOSED (pursuant to GOV §§ 11346.2(b)(1) and 11349(a) and 1 CCR § 10(b)). *Note: For each adoption, amendment, or repeal provide the problem, purpose and necessity.***

The Board is proposing action to amend 14 CCR § 1090, 1090.5, 1090.6, 1090.7, 1090.9, 1090.10, 1090.13, 1090.25, and 1090.26.

The **problem** is that the issues of clarity and consistency exist within the Forest Practice Rules (FPRs) related to both existing regulations as well as the statutory amendments within SB 901. Additionally, the Department requested clarification on the use of exemptions within the footprint of a NTMP; which allow for the bypassing of the Nonindustrial Timber Harvest Notice process contained within the regulations for NTMP in order to achieve certain, specified, management objectives. Lastly, mapping standards for the NTMP have not been updated for 27 years and do not adequately reflect current technology and other existing regulatory mapping standards.

The **purpose** of the proposed action is to clarify existing regulations to make them consistent with changes resulting from the passage of SB 901, to update 14 CCR § 1090 *et seq.* to improve the administration of the NTMP regulations as reflected in the more contemporary WFMP regulations which include expanded use of a Designated Agent and certain reporting related to Minor Deviations.

### **Aggregated Explanation**

The proposed amendments to sections § 1090.5, 1090.6, 1090.7, 1090.9, 1090.10, 1090.13, 1090.25, and 1090.26 do the following:

- Clarify the use of a designated agent in the section of regulation.
- Clarifies reporting standards for the sections related to the designated agent.
- Provides for additional mapping requirements for NTMPs and for the Nonindustrial Timber Harvest Notice.

The proposed amendment to section § 1090 does the following:

- Expands the use of 1038 exemptions within the footprint of an NTMP by making them equivalent to a plan in subchapter 7 of Chapter 4 of Title 14 CCR.

**Amend §§ 923.3, 943.3, and 963.3**

The purpose of these amendments is to reference the mapping requirements for logging roads and landings for NTMPs. These amendments are necessary to clarify the location of these regulatory requirements within the re-numbered NTMP mapping requirements of 14 CCR §§ 1090.5 and 1090.7

**Amend § 1090 Rule Application**

The purpose of this amendment is to exclude 14 CCR § 1038 *et seq.* from the portions of the FPRs where the term Plan is not to be considered equivalent to the term Nonindustrial Timber Management Plan. This amendment will allow nonindustrial timberland owners the use of the 14 CCR § 1038 exemptions within the footprint of an NTMP, given that the 14 CCR § 1038 provisions provide both conditions related to plans, as well as exemptions from the plan preparation process. This amendment is necessary to clarify where this equivalency is to occur within the regulations and to improve the interpretation and enforcement of the regulations by the Department.

**Adopt § 1090.01. Definitions**

The purpose of this adoption is to define a “Designated Agent” and to identify that the use of such an agent is required when an NTMP includes parcels owned by more than a single ownership or if an NTMP has more than one responsible RPF. This adoption is necessary to clarify this definition and requirement, and the requirement to utilize a designated agent under certain conditions is necessary to ensure that the Department has a single point of contact throughout the NTMP processes and to promote regulatory compliance.

**Amend § 1090.5(a)**

The purpose of this amendment is to require the name, address, and telephone number of the designated agent to be included within the NTMP only if there is more than one timberland owner. This is necessary to maintain consistency with the adopted definition of “Designated Agent” and to clarify when this requirement is necessary.

**Amend § 1090.5(h)**

The purpose of this amendment is to remove the erroneous “management” from the end of this provision, which is necessary to improve both grammatical clarity and eliminate any confusion related to the interpretation of this provision.

**Amend § 1090.5(w)**

The purpose of these amendments is to require that boundaries of areas which are sample marked for each silvicultural method, specific logging roads and landings, specific excess material disposal sites, new or proposed abandoned logging road crossings, the location of certain ridge tops, and late successional forest stands be mapped within the submitted NTMP. These amendments are existing requirements of timber harvest plans within 14 CCR § 1034(x) and working forest management plans within 14 CCR § 1094.2(b) and are appropriate and suitable here to provide disclosure of these potentially environmentally sensitive areas to the Department and review teams to allow for adequate analysis of potential impacts. These changes are necessary to

address outdated standards and ensure that the mapping standards for this plan are sufficient for use by the Department and other agencies to inform the enforcement of other regulations and ensure the maintenance of environmental health. Additionally, the Board determined that the mapping standards for the NTMP should mirror the standards for the WFMP in order to make review more efficient for the Department and improve environmental quality by improving disclosure of spatial data for these plans. These amendments are necessary to clarify these mapping requirements, to promote adequate disclosure and improve enforcement of the regulations, and to ensure that these requirements are incorporated into the contents of notice of timber operation submissions tiered to approved NTMPs.

#### **Amend §§ 1090.6, 1090.7, 1090.9, 1090.10 1090.13, 1090.25, 1090.26 related to the use of a Designated Agent**

The purpose of these amendments is to require the use of a designated agent for specified tasks for NTMPs with multiple landowners. The statutory amendments within SB 901 redefined a nonindustrial timber management plan as a plan which “may include multiple nonindustrial tree farmers, but shall not cover more than 2,500 acres.” This use of a designated agent creates one point of contact for the Department and improves and simplifies all notification and submission requirements. These amendments are necessary to clarify when a Designated agent is necessary and appropriate.

#### **Amend § 1090.6. Notice of Timber Operations**

The purpose of this amendment is to require that notices of timber operation are submitted to the Department via certified mail or personal delivery, and that timber operations may not commence until the person submitting the notice of timber operations has either personally submitted the notice, or received the certified receipt that the Department has received the notice. This amendment is necessary to clarify the manner in which notification must be made to the Department and, given that timber operations may commence in a relatively short period of time following notification, this is necessary to ensure that notification reaches the Department and that timber operations do not commence without notification.

#### **Amend § 1090.7**

The purpose of these amendments is to require the mapping of all roads, specific qualities of those roads, specific locational features which exist within those roads, certain excess material disposal sites, certain tractor road watercourse crossings, and certain ridge tops within the notice of timber operations. These amendments are existing requirements of timber harvest plans within 14 CCR § 1034(x) and working forest management plans within 14 CCR § 1094.8(h)(2) and (u)(4) and are appropriate and suitable here to provide disclosure of these potentially environmentally sensitive areas to the Department and review teams to allow for adequate analysis of potential impacts. These changes are necessary to address outdated standards and ensure that the mapping standards for this plan are sufficient for use by the Department and other agencies to inform the enforcement of other regulations and ensure the maintenance of environmental health. Additionally, the Board determined that the mapping standards for the NTMP should mirror the standards for the WFMP in order to make review more

efficient for the Department and improve environmental quality by improving disclosure of spatial data for these plans. These amendments are necessary to clarify these mapping requirements and to promote this adequate disclosure and improve enforcement of the regulations.

The purpose of amendments to 14 CCR § 1090.7(d) is to eliminate redundant language related to a legal description and to require disclosure and identification of acreage owned by individual timber owner within an NTMP. These amendments are necessary to clarify these disclosure requirements and to allow for adequate enforcement of the regulations.

#### **Amend §1090.9**

The purpose of these amendments is to require the plan submitter to file a minor deviation to the plan which identifies a designated agent (where necessary), at least five days before filing the first notice of timber operations, unless a designated agent is already identified within the NTMP. These amendments also require a minor deviation to be filed if there is a change in the designated agent, with certain temporal requirements, and allow for the delegation of specific responsibilities to the designated agent by the plan submitter, with written notification to the Director. These amendments are necessary to clarify these requirements, as well as to ensure compliance with the requirements surrounding Designated Agents, and to allow for a designated agent to be delegated additional responsibilities by a plan submitter to improve enforcement of the regulations.

#### **Amend § 1090.10**

The purpose of this amendment is to require the RPF to notify the LTO, the plan submitter (or designated agent if required), and the Department if they decide to withdraw professional services from an NTMP. This is necessary to provide adequate notification to all parties, as well as to ensure adequate enforcement of any regulations or activities which require an RPF, by the Department.

#### **Amend § 1090.17(f)(3)(A)4.**

The purpose of this amendment is to clarify that the watershed identification, if utilized, should be consistent with CALWATER 2.2. identification numbers, and is necessary to clarify this disclosure requirement and to promote enforcement of the regulations.

#### **Non-Substantive Amendments**

1. Capitalized and utilized terms defined pursuant to 14 CCR § 895.1 and this Article throughout the amendments where appropriate, including:
  - a. Notice
  - b. Notice of Preparation
  - c. Designated Agent
  - d. Timberland
  - e. Sensitive Species
  - f. Cumulative Impacts
  - g. Watercourse and Lake Protection Zones

- h. Rules
  - i. License
  - j. Winter Period
  - k. Slash
  - l. Site Preparation
  - m. Cutting Method
  - n. Silvicultural Method
  - o. Timber Operations
  - p. Erosion Hazard Rating
2. Made lower-case terms which were capitalized but not proper-nouns or undefined within applicable regulation or are not used consistent with their regulatory definition, including the following:
    - a. notice of preparation to harvest timber
    - b. timberland owner
    - c. report of satisfactory stocking
    - d. species
    - e. watercourse crossings
    - f. slash
    - g. functional
    - h. license
  3. Re-structured existing regulatory structure to promote simple and more logical regulatory structure by:
    - a. Moving 14 CCR § 1090.5(e) to 14 CCR § 1090.5(d)
    - b. Re-lettered existing 14 CCR § 1090.5(d) to (e) to accommodate the movement of existing subsection (e).
    - c. Re-numbered 14 CCR § 1090.5(w)(4) through (14) to (5) through (15) to accommodate for the inclusion of newly added (w)(4).
  4. Included written and Arabic numbers where they exist.
  5. Improved grammar throughout.
  6. Where a timber management plan, management plan, or other reference is made to non-industrial timber management plans, the defined initialism "NTMP" has been used.

**ECONOMIC IMPACT ANALYSIS (pursuant to GOV § 11346.3(b)(1)(A)-(D) and provided pursuant to 11346.3(a)(3))**

The **effect** of the proposed action is the following:

- A nominal increase in the costs to produce new NTMPs and nonindustrial timber harvest notices by adding additional mapping requirements.
- A decrease in the costs to the Nonindustrial Tree Farmer by the allowance of 1038 exemptions within the footprint of an NTMP. This would remove Registered Professional Forester involvement on some exemptions which could now be utilized with these proposed changes.

Businesses and Individuals will be subject to this cost. However, businesses are not expected to expand or contract because of these amendments. Although the proposed action will likely increase costs for the development of new NTMPs, it is not expected that the proposed action will be so economically expensive that it will result in

contraction of businesses or so time consuming that it will result in an expansion of businesses. Conversely, the allowance for the use of 1038 exemptions will provide economic relief to those Nonindustrial Tree Farmers who experience unanticipated forest health events such as disease and insect infestations.

No jobs are expected to be created or eliminated because of the proposed action.

The number of businesses impacted, including small businesses, is unknown. Small businesses mean independently owned and operated, not dominant in their field of operations, having fewer than 100 employees, and having annual gross receipts less than \$1,000,000. No businesses are expected to be created or eliminated.

The geographic extent is Statewide.

The proposed action will likely adversely affect the ability of California businesses to compete with other States by making it costlier to produce goods and services in California. Overall these changes would result in a nominal impact to the existing expenses of managing timberland in California as compared to other States.

There are no business reporting requirements associated with the proposed action.

The proposed action does not afford the incentive for innovation in products, materials or processes.

The proposed action will have a neutral effect on health, welfare, and worker safety. However, the proposed action will benefit the State's environment through the continued functions of the NTMP which has been successful in encouraging forest management and discouraging timberland conversion.

#### **STATEMENTS OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to **GOV § 11346.5(a)(10)** and prepared pursuant to **GOV § 11346.3(b)(1)(A)-(D)**. The proposed action:

- (A) will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses,
- (B) will not eliminate existing businesses within California
- (C) will not affect the expansion or contraction of businesses currently doing business within California.
- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the "Introduction Including Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address".

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT RELIED UPON (pursuant to GOV SECTION 11346.2(b)(3))**



The Board of Forestry and Fire Protection relied on the following list of technical, theoretical, and/or empirical studies, reports or similar documents to develop the proposed action:

1. State of California Public Resources Code (PRC) §§ 1090-1090.28
2. State of California Senate Bill 901 (2018)
3. Z'berg-Nejedly Forest Practice Act, Article 7.5. Nonindustrial Timber Management Plan.
4. "The Impact of California's Changing Environmental Regulations on Timber Harvest Planning Costs". Thompson, R., Dicus, C., California Polytechnic University San Luis Obispo, March 2005.

**REASONABLE ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED BY THE BOARD, IF ANY, INCLUDING THE FOLLOWING AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES (pursuant to GOV § 11346.2(b)(4)(A) and (B)):**

- **ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACTS ON SMALL BUSINESS AND/OR**
- **ALTERNATIVES THAT ARE LESS BURDENSOME AND EQUALLY EFFECTIVE IN ACHIEVING THE PURPOSES OF THE REGULATION IN A MANNER THAT ENSURES FULL COMPLIANCE WITH THE AUTHORIZING STATUTE OR OTHER LAW BEING IMPLEMENTED OR MADE SPECIFIC BY THE PROPOSED REGULATION**

Pursuant to **GOV § 11346.2(b)(4)**, the Board must determine that no reasonable alternative it considers, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**Alternative 1: No Action Alternative**

The Board considered taking no action, but this alternative was rejected because it would not address the problem.

**Alternative #2: Amend only for statutorily required changes**

This action would include greatly simplifying the amendment to just clarifying that NTMPs may have multiple landowners. This action would ignore the Department's concerns regarding a single point of contact, making administration of NTMPs more confusing and problematic. It would also ignore the Departments administrative concerns for the use of exemptions within the footprint of an NTMP. Lastly, though this option would make the regulations significantly less prescriptive without the inclusion of new mapping requirements, this option would reduce consistency and clarity between

the mapping requirements for NTMPs and WFMPs and would maintain outdated mapping standards for the NTMP.

### **Alternative #3: Proposed Action**

Alternatives 1 and 2 would not be more effective or equally effective while being less burdensome or impact fewer small businesses than the proposed action. Specifically, alternatives 1 and 2 would not be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

Additionally, alternatives 1 and 2 would not be more effective in carrying out the purpose for which the action is proposed and would not be as effective and less burdensome to affected private persons than the proposed action or would not be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action. Further, none of the alternatives would have any adverse impact on small businesses.

There are no other viable alternatives. Regulatory changes are required to maintain consistency between regulation and statute given the passage of SB 901 and the associated statutory changes. Additionally, the proposed changes unrelated to the amendments in Senate Bill 901 will provide the Department with guidance on the use of exemptions and updated standards for mapping to supplement environmental review for participating public agencies and the public.

### **Prescriptive Standards versus Performance Based Standards (pursuant to GOV §§11340.1(a), 11346.2(b)(1) and 11346.2(b)(4)(A)):**

Pursuant to **GOV §11340.1(a)**, agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.

The proposed action is prescriptive as necessary to address the problem. The statutory standards are inherently prescriptive, and thus must be prescriptive in regulation. Additionally, for the non-statutory changes, performance based changes are not considered viable alternatives as the underlying problem is lessening the administrative burden of reviewing a Nonindustrial Timber Management. As functions of an administrative process, prescriptive standards are essential for enabling easy completion of applications, efficient review by the Department, and fair implementation of regulations. The proposed changes are minimal and provide guidance to the Department for the administration of NTMPs, relief to the Nonindustrial Tree Farmer in the form of allowance for exemptions and multiple landowners, and updated mapping standards to assist in environmental review and protection.

Pursuant to **GOV § 11346.2(b)(1)**, the proposed action does not mandate the use of specific technologies or equipment.

Pursuant to **GOV § 11346.2(b)(4)(A)**, the abovementioned alternatives were considered and ultimately rejected by the Board in favor of the proposed action. The proposed action does not mandate the use of specific technologies or equipment, but does prescribe specific actions.

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE RELIED UPON TO SUPPORT INITIAL DETERMINATION IN THE NOTICE THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS (pursuant to GOV § 11346.2(b)(5))**

The fiscal and economic impact analysis for these amendments relies upon contemplation, by the Board, of the economic impact of the provisions of the proposed action through the lens of the decades of experience practicing forestry in California that the Board brings to bear on regulatory development. Data was also utilized from CAL FIRE accounting reports and projections.

The proposed action will have a statewide nominal adverse economic impact directly affecting businesses, but it is not considered to be significant.

**DESCRIPTION OF EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATION (pursuant to GOV § 11346.2(b)(6))**

The Code of Federal Regulations has been reviewed and based on this review, the Board found that the proposed action neither conflicts with, nor duplicates Federal regulations. There are no comparable Federal regulations for Nonindustrial Timber Management Plans.

**POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS CEQA**

CEQA requires review, evaluation and environmental documentation of potential significant environmental impacts for a qualified Project. Pursuant to case law, the review and processing of Nonindustrial Timber Management Plans (NTMP) has been found to be a Project under CEQA. Additionally, the Board's rulemaking process is a certified regulatory program having been certified by the Secretary of Resources as meeting the requirements of PRC § 21080.5.

While certified regulatory programs are excused from certain procedural requirements of CEQA, they must nevertheless follow CEQA's substantive requirements, including PRC § 21081. Under PRC § 21081, a decision-making agency is prohibited from approving a Project for which significant environmental effects have been identified unless it makes specific findings about alternatives and mitigation measures

Further, pursuant to PRC § 21080.5(d)(2)(B), guidelines for the orderly evaluation of proposed activities and the preparation of the NTMP or other written documentation in a

manner consistent with the environmental protection purposes of the regulatory program are required by the proposed action and existing rules.

The proposed action would be an added element to the state's comprehensive Forest Practice Program under which all commercial timber harvest activities are regulated. The Rules which have been developed to address potential impacts to forest resources, including both individual and cumulative impacts, project specific mitigations along with the Department oversight (of rule compliance) function expressly to prevent the potential for significant adverse environmental effects.

NTMPs contain a mix of project relevant avoidance and mitigation measures to reduce the risk for potential significant adverse effects. NTMPs additionally contain a comprehensive cumulative effects analysis utilized in part to identify potential risks and effects to aid in RPFs in avoidance and mitigation measure development

State representatives review every NTMP Notice of Preparation to determine if a Project will have a significant adverse environmental impact. Prior to making a decision of approval or denial, the review team (the Director) often supplements the information provided by the RPF and the plan submitter when necessary to ensure that all relevant information is considered. The review team (the Director) has broad discretion to request the necessary information be provided to the Department and responsible agencies to facilitate review and development of appropriate mitigation measures to ensure that the Project will not cause a significant adverse environmental impact. Local and federal agency representatives are also involved in the review process.

Pursuant to 14 CCR § 896(a), it is the Board's intent that no NTMP shall be approved which fails to adopt feasible mitigation measures or alternatives from the range of measures set out or provided for in the Rules which would substantially lessen or avoid significant adverse impacts which the activity may have on the environment

Once Plans are approved, state representatives continue with compliance inspections of approved Plans until the conclusion of the Plan's lifespan. Where the Rules or approved Plan provisions have been violated, specified corrective and/or punitive enforcement measures, including but not limited to financial penalties, are imposed upon the identified offender(s).

In summary, the proposed action does not have the potential to result in significant adverse environmental effects.